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NOMINATION OF FRANCIS ANTHONY KEATING II

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

NOMINATION OF FRANCIS ANTHONY KEATING II, OF OKLAHOMA, TO BE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT

JULY 13, 1989

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NOMINATION OF FRANCIS ANTHONY KEATING II, OF OKLAHOMA, TO BE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT

THURSDAY, JULY 13, 1989

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The committee met at 9 a.m., pursuant to notice, in room SD-538, Dirksen Senate Office Building, Senator Donald W. Riegle, Jr. (chairman of the committee) presiding.

Present: Senators Riegle, Sanford, Garn, D'Amato, and Mack.

The CHAIRMAN. The committee will come to order.

We are starting at an early hour this morning and have a number of items, and I know colleagues will be coming in at different points.

But I want to begin this morning by proceeding with our nomination hearing of Mr. Francis Keating II, of Oklahoma to be general counsel for the Department of Housing and Urban Development.

We are very pleased to have him here today, and I would acknowledge his presence at the witness table and also our colleague, Don Nickles, who is here. We are delighted to have both of you.

Let me invite you, Senator Nickles, to make whatever introductory comments you wish to make.

STATEMENT OF DON NICKLES, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator NICKLES. Mr. Chairman, thank you, and I'm very sincere when I say thank you. I appreciate you scheduling this hearing, and compliment you for having it at this early hour. I know your schedule is very busy, particularly in light of the fact that you have the FSLIC markup, and I particularly am pleased that you would respond to my request to move expeditiously on the hearing for Francis Keating for general counsel of the Department of Housing and Urban Development.

I think it's vitally important that we do move as rapidly as possible to confirm Mr. Keating. I think Secretary Kemp needs a general counsel in light of all of the problems that are now facing the Housing Department, and it's really incumbent upon Congress to move swiftly in order to give him the assistance necessary. He certainly needs a general counsel. There are many legal ramifications and much homework that needs to be done concerning mistakes that have been made in the past, and a general counsel is a very vital element to make this happen.

So I think it's important that Congress move rapidly. I appreciate you scheduling this hearing at 9 o'clock in the morning in light of your busy schedule and the busy schedule of all of our colleagues.

Mr. Chairman, I come before you today giving my wholeheartedly and strong support of Francis Keating. I have had the pleasure of knowing him for a long time, as we served together in the Oklahoma State Senate.

Prior to Mr. Keating serving in the Senate, he also graduated from the University of Oklahoma and Georgetown University. He served as an FBI agent. After his service in the State senate, he was selected by President Reagan to be U.S. attorney for the Northern District of Oklahoma. He served in that capacity quite well.

After that, he was selected and served as Assistant Secretary of the Treasury for Enforcement from 1985 to 1988. This was followed by his selection and confirmation in the Senate as Associate Attorney General to the U.S. Department of Justice.

For many years then it is quite obvious that Mr. Keating has served not only the State of Oklahoma, but the United States in a capacity that is honorable not only to himself, but to our country as well. I think he has done an outstanding job.

Again the Secretary of HUD needs a general counsel, and I think it's an excellent selection that the President has made. I would urge this committee and the Senate to move as rapidly as possible on his confirmation.

OPENING COMMENT OF CHAIRMAN RIEGLE

The CHAIRMAN. Thank you very much, Senator Nickles. We appreciate your presence and your strong statement in his behalf.

I have a brief opening comment that I want to make, and then I'm going to call on my colleague, Senator D'Amato, and then we'll proceed to our nominee this morning.

Mr. Keating, let me again formally welcome you. We are pleased to have you before the committee.

As general counsel of HUD you will clearly be the Department's point man on the HUD investigation. I urge you, and I know my colleagues on the committee would add their voice to mine in saying that we expect you to move quickly and decisively to deal with the HUD problems that have been uncovered.

We will be doing the same here, and our committee looks forward to working closely with you. I think it's very important that we have a positive, cooperative working connection back and forth between the Department and this committee if we are both to succeed with our work.

I think we have started by developing an excellent working relationship with Secretary Kemp both here in the committee and in outside activities that we have been working on together. So I think we have laid down a very strong foundation of cooperation between the Department and this committee, and we want to continue that in terms of your service as well.

You come with a reputation as a tough but fair enforcer of the law, and I'm convinced in looking at your record and background

that you're the right man for this job, a tough job at a tough time, but I think you're well matched to it.

Senator D'Amato.

OPENING STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Well, thank you very much, Mr. Chairman.

I have a particular concern, and I don't know whether to raise it now, Mr. Chairman, it's not with Mr. Keating, whom I hope will be soon confirmed the counsel to HUD. I would like to get his view as it relates to what seems to me to have been a midnight blunder as it related to section 404 of the Emergency Supplemental Appropriations Act of 1989 where the specific work which Senator Moynihan, myself and a number of others undertook to provide the tools for a speedy eviction process relating to drug dealers was all but negated by this legislative action taken during the supplemental appropriation period.

I have received upon return from our 4th of July break a number of inquiries from housing authorities, this last one coming from Mr. Popalizio, the Chairman of the New York City Housing Authority, which expresses his great consternation at the provisions of section 404 which in essence makes it almost impossible to evict tenants who are drug dealing.

I wonder if Mr. Keating has had an opportunity to look at this section? I am going to offer, along with Senator Moynihan, corrective legislation, Mr. Chairman. I think those who tamper with the legislation in the appropriations process do a grave injustice. This is only one example where we see the kind of play that takes place.

This was not introduced on the floor. There was not even an opportunity for us really to vote on it. We took that bill by voice vote. I intend to be a heck of a lot more vigilant if this is what we are going to see take place. But I'm wondering if it would be appropriate to ask Mr. Keating to comment on this particular provision.

The CHAIRMAN. I think so, although I think probably if you will defer just briefly on that, we ought to swear the witness and allow him to perhaps make his opening comment, and then we will go right to that question that you have.

Senator D'AMATO. Certainly.

[Senator Riegle and Mr. Keating stand for the administration of the oath.]

The CHAIRMAN. Mr. Keating, do you swear that the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Mr. KEATING. I do.

The CHAIRMAN. Do you agree to appear and testify before any duly constituted committee of the Senate?

Mr. KEATING. I do.

The CHAIRMAN. Thank you. Be seated, please.

Let me ask you now if you have any initial comments that you want to make to the committee?

STATEMENT OF FRANCIS ANTHONY KEATING II, NOMINEE TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. KEATING. Mr. Chairman and Senator D'Amato, I have a formal opening statement I would like to provide the committee and ask that it be made a part of your record.

The CHAIRMAN. We will make it a part of the record.

Mr. KEATING. In lieu of that, Mr. Chairman, I would like to say a few very brief things.

First, Mr. Chairman, I'm grateful, as is Secretary Kemp, for your willingness to call this hearing and to permit me to be considered by you and by the committee and by the full Senate for the position of general counsel at HUD.

Second, of course, I would like to thank my good friend, Senator Don Nickles from Oklahoma for his willingness to introduce me.

And, third, and obviously most importantly, I wish to express my gratitude to President Bush for his willingness to nominate me and of course to Secretary Kemp for his selection of me for this position.

Mr. Chairman, as you have indicated, the HUD crisis is one which demands full participation by all of the team selected by President Bush and by Secretary Kemp.

Secretary Kemp has asked me to head the drug part of the equation and to put together a task force at HUD to attempt to do something significant and soon about the crisis of drugs in public housing. Reform is Secretary Kemp's watchword and will be throughout his tenure as Secretary of HUD.

As the chairman is well aware, from the moment Secretary Kemp arrived we have examined and resolved extremely controversial and very troubling public policy issues such as the moderate rehabilitation matter, title X coinsurance, the closing agent scandal, and now we have of course a very great responsibility, as Senator D'Amato has indicated, to do something concrete about drugs in public housing.

I am confident that with Secretary Kemp as our leader that we have a team that will be able to satisfy the President and the Senate and of course the public. I'm confident that Secretary Kemp is on the right track. I'm convinced that his agenda is the proper public agenda, and I think that the reform agenda which he is advancing deserves the support of the American public and hopefully as well the support of this Senate.

I intend to be as open and accessible to you, Mr. Chairman, Senator D'Amato and members of this committee, as can be. Any time an issue which affects our Department is of concern or interest to you, I will be available to come and visit with you on those subjects because, as I have indicated, we intend to make sure that the problems of this Department are cleaned up, are cured, and we intend to continue to do that as we have during the course of the last several months.

So again, Mr. Chairman, I appreciate your willingness to have this hearing this morning, I would appreciate consideration by this committee and by the full Senate.

[The prepared statement of Francis Anthony Keating and biographical sketch follows:]

STATEMENT OF

THE HONORABLE FRANK KEATING

GENERAL COUNSEL-DESIGNATE

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

BEFORE THE

SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

JULY 13, 1989

Chairman Riegle, Senator Garn, and members of the Committee. It is an honor to appear before you this morning as President Bush's nominee to serve as General Counsel of the Department of Housing and Urban Development.

I am grateful that the President have seen fit to nominate me to this position of trust and responsibility, and I appreciate this opportunity to continue my career of public service.

I am also grateful for the confidence expressed in me by an extraordinary public servant and your former colleague, HUD Secretary Jack Kemp.

When I was first designated by President Bush for the position of General Counsel, I was excited by the challenge of working with Secretary Kemp to achieve the goals of housing opportunity, homeownership, economic growth and jobs which are at the heart of HUD's mission.

Since that time, HUD has been confronted with a series of management challenges that were largely unexpected. The correction of these problems has demanded and will continue to demand immediate action and our constant attention. But, as Secretary Kemp has said, we can only begin to use our full resources to wage a war on poverty when integrity, efficiency and a sense of fair play are restored to the Department of Housing and Urban Development.

In recent months, Secretary Kemp has been forced to take action to halt certain HUD programs and institute reforms in others. Efforts to clean up abuse in HUD programs are continuing at an accelerated pace, and reforms are being implemented in a

variety of programs to ensure not only that past problems are corrected, but also to guarantee that programs operate in the future as Congress intended and in the best interests of the people whom the Department is meant to serve.

Secretary Kemp has indicated in the strongest terms that he intends to move forward to achieve the policy priorities which he outlined to you at his own confirmation hearing in January, and which I am certain he will reiterate when he testifies before the Housing Subcommittee next week. But at the same time we will build on our reform efforts, and our commitment to improve the operation of HUD programs will be ongoing.

Because of my background as a U.S. Attorney, as Assistant Secretary of the Treasury for Enforcement and as the third-ranking official at the Department of Justice, I consider myself in an ideal situation to assist in the Secretary's reform efforts. That experience will also enable me to play a major role in meeting one of the Department's principal policy objectives. Secretary Kemp has created task forces within HUD to develop recommendations to meet each of his six priorities for the Department. He has designated the General Counsel to head his Drug Task Force. Our mandate is to develop policies which will, in a responsible way, help make public housing, and indeed all HUD-assisted housing, drug free. We will be a key part of a tough, government-wide effort to rid this nation of the scourge of drugs and drug abuse.

A continuing concern of mine will be ethics. President Bush

has made it clear that members of this Administration are expected to hold themselves to an exacting code of conduct. Secretary Kemp has stated that there will a zero tolerance at HUD for violations of our standards of conduct, and he expects all employees of the Department to meet those standards. As chief law officer of the Department, I will take personal charge of ensuring those standards are met.

Members of the Committee, as vital as it is to correct past abuses of HUD programs and prevent new ones, the Department of Housing and Urban Development has a mission to fulfill that involves empowering the poor and expanding housing and economic opportunity, and Secretary Kemp is deeply committed to meeting this challenge. I look forward to the role that I can play in developing and executing HUD programs and policies.

In recent congressional testimony, Secretary Kemp said: Our programs will be administered not only ethically and efficiently, but also competitively and consistent with statutory requirements, for their legitimate purpose. This goes for Section 8 Mod Rehab and for every other HUD program."

I pledge to you that I will do all I can to assure that we meet this commitment and that our programs operate for the fullest benefit of people in need.

In this spirit, I offer myself to you as the President's nominee to be General Counsel of the Department of Housing and Urban Development.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Keating (LAST) Francis (FIRST) Frank (MIDDLE)

Position to which nominated: General Counsel Date of nomination:

Date of birth: 2-10-44 (DAY) (MONTH) (YEAR) Place of birth: St. Louis, Missouri

Marital status: Married Full name of spouse: Catherine A. Heller Keating

Name and ages of children: Carrissa H. Keating - age 15
Kelly M. Keating - age 13
Anthony F. Keating III - age 9

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Cascia Hall	1957-1962	High School Diploma	
Georgetown University	1962-1966	B.A.	
University of Oklahoma	1966-1969	J.D.	

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

American Bar Association

Oklahoma Bar Association

Tulsa County Bar Association

Edmund Randolph Award - U.S. Department of Justice 1988

Named Knight Commander of the Holy Sepulchre by Pope John Paul II

Memberships: **List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.**

Organization	Office held (if any)	Dates
Arts & Humanities Council Tulsa, Oklahoma	Director	1978-1979
Metropolitan Tulsa Transit Authority	Trustee	1979-1981
Oklahoma Assn. of Retarted Citizens	Director	1976-1977
Tulsa Area United Way	Prof. Chairman	1985
Treasury Dept. Combined Federal Campaign	Chairman	1987
NAACP	State Counsel-Okla.	1985
Hillcrest Hospital, Tulsa,OK	Associate Board of Directors	1980-1984

Employment record: **List below all positions held since college, including the title or description of job, name of employment, location of work, and dates of inclusive employment.**

Associate Attorney General, U.S. Department of Justice 5/88-3/89

Assistant Secretary (Enforcement) U.S. Department of Treasury 1985-5/88

Partner, Pray, Walker, Jackman, Williamson & Marlar, Tulsa OK 7/85-12/85

United States Attorney, DOJ, Tulsa, Oklahoma 6/81-12/83

Attorney, Blackstock, Joyce, Pollard, Blackstock & Montgomery, Tulsa, Oklahoma 6/72- 6/81

Assistant District Attorney, Tulsa County DA's Office 6/71-6/72

Member, State of Oklahoma House and State Senate 11/72-6/81

FBI Agent, FBI Washington, D.C. 7/69-6/71

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

See Employment and Membership Record (previous page)

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Oklahoma Bar Journal (1982) Federal Practice Primer

Oklahoma Bar Journal (1985) Liquor By the Drink in Oklahoma

Political affiliations and activities: List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Oklahoma State Republican Executive Committee 1979-1981

Tulsa County Republican Executive Committee 1979-1981

Political contributions: Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify the specific amounts, dates, and names of the recipients.

None

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

See attachment

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No plans

3. Has anybody made you a commitment to a job after you leave government?

No

4. Do you expect to serve the full term for which you have been appointed?

I expect to remain as long as Secretary Kemp desires my services.

Attachment

QUALIFICATIONS:

State fully your qualifications to serve in the position to which you have been named.

As a litigator and as a lawyer in private practice, I have been active in housing and real estate issues. As the number three official in the Justice Department and as Assistant Secretary of the Treasury, I have managed numerous national legal issues and lawyers, and believe that these credentials well suite me to assist the President and Secretary Kemp in advancing their inner urban restoration agenda.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

None

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

Any real or perceived conflicts of interest will be resolved in favor of my disqualification or recusal from the issue.

Civil, criminal and investigatory actions:

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

None

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

None

The CHAIRMAN. Let me say one thing related to an item that you raised, and then I'll yield to Senator D'Amato. As you know, Secretary Kemp testified this week on the House side that his current estimate of losses due to fraud and abuse of HUD programs is a figure of $2 billion. Of course it may prove to be higher than that, but anything in that range is certainly startling.

Our committee this morning will act to formally authorize our ability to examine and investigate the problems that have come to light with an eye to determining what legislative changes may be needed to try to prevent future abuses of this kind.

I want to be sure that as we proceed with these investigations we maintain a top-notch, cooperative relationship with HUD. This committee will proceed very carefully and in a measured way to its work, but I think we have to be in a position to work in tandem with HUD.

I'm sure there will be occasions where information, at HUD—records, documents, whatever it might be—will be items that we will need to review or have access to to understand what has happened. We may wish to also change certain laws.

I want to establish with you today that you understand this desire so that we can expect to have a positive, cooperative relationship as we work together—particularly with respect to information needs that may arise.

Mr. KEATING. Mr. Chairman, I might say that all of the programs that we have detected problems in, and some of course, unfortunately, criminal, some incompetency, some abuse of the process, just breakdowns in the administrative structure, as we examine all of those program areas, and we have during the course of the last several months, there will be in some legislative recommendations.

I can assure you that Secretary Kemp is anxious to work with you on a daily basis if necessary to identify those legislative solutions and to work with you in order to accomplish them.

The CHAIRMAN. But in terms of information that relates to past HUD activities—records, documents and other items in the files—that we might need to see, or to examine to make our own judgment, I assume you will help us get and review those documents.

Mr. KEATING. We will do it thoroughly and promptly, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator D'Amato.

Senator D'AMATO. Mr. Chairman, once again I'm wondering, as it relates to an issue which I think Secretary Kemp has quite rightfully raised some concern yesterday, and has spoken to this committee about, and that is the importance of seeing to it that public housing is run safely and drug free to the extent that we can.

Now that raises a question as it relates to section 404, which was inserted literally at the closing hours of the Supplemental Appropriation Act of 1989.

Have you had, Mr. Keating, an opportunity to review that amendment, and what does that section 404, that provision do? My housing people in New York tell me that it will make it impossible for them to bring about the kinds of evictions there should be,

where we are talking about a premises that has a drug dealer or someone in the family who is dealing drugs.

Mr. KEATING. Well, Senator D'Amato, Secretary Kemp believes, as you have just stated, that public housing tenants have an absolute right to a safe and secure living environment, and if drug dealers and drug thugs in public housing are difficult to evict, if in effect they are given more rights than the average private housing tenant and if it is impossible in some cases to get a drug dealer next door out of public housing, something has to be done about that.

So Secretary Kemp several months ago instructed us to examine the laws of the 50 States to determine whether or not those laws were due process sound and if it would be sufficient to have the public housing authorities go straight to State district court in those States that have sound due process structures and avoid the cumbersome and time-consuming lease and grievance process at HUD before you can go to district court and attempt to evict a drug dealing tenant.

We have at the present time made findings that 28 States have due process sound systems. It was first brought to our attention, Senator D'Amato, after the tragic death of a police officer in Alexandria when the Virginia authorities came to us and said that in private housing an individual who is dealing drugs, the landlord can immediately take them to State district court and after a due process system of a trial and cross-examination and evidence and discovery, they evict.

But in public housing in the HUD system before you can even get to that due process system, you had a long, lengthy, laborious, time-consuming administrative process at HUD which could add upward of 3, 4 or 5 months and even a year to the eviction process. Obviously witnesses are afraid to testify if they think that individual is going to be next to them for the next 5 or 6 months or a year.

So we attempted to change the system to waive off the lease and grievance process in States that have sound due process systems.

With that in mind, and I want to say that the tenant groups universally applauded what we were attempting, we had a drug conference here and discussed that agenda with people such as Kimi Gray here and Bertha Gilkey and other attendant leaders around the United States and they supported what we were doing.

And then, as you have indicated, inexplicably and unfortunately action was taken in the Congress to tie our hands and to make it not only more difficult than it was previously, but far more difficult to get at the very cancer of the problem.

We had to first go out and ask the tenants what they thought. Well, we knew what the tenants thought. They want to be safe and secure in their homes.

But, second, we had to see to it that before an eviction could take place for a drug related activity that it, in addition to being drug related, it had to affect the health and welfare of the public, an added burden, and then it put an incredible burden on us in attempting to evict members of families where in some cases the families were actively involved in drug trafficking and in other cases members of the family looked the other way and didn't do

what they were supposed to do in terms of keeping their children out of trouble.

It was just a very difficult burden placed upon us, especially when the tenants practically universally I think supported our efforts and we explained what we were doing to the Congress, and I think that in terms of due process, as Secretary Kemp has said, I want to be tough on drugs, but I want to be tough for due process, and we were.

So I think that the action of the Congress in putting this language in the appropriations bill in effect gave an extra leg up to the drug traffickers. We found it inexplicable, we found it amazing that it could happen, and we are grateful, Senator D'Amato, for your willingness to be the leader in attempting to change that very unfortunate state of affairs.

Senator D'AMATO. I thank you, Mr. Keating, and let me say that the provision which initially in the antidrug bill section, 5122(I) of the Anti-Drug Abuse Act of 1988, was a provision which a Member of the Congress and in particular Senator Moynihan and myself and our working groups labored over many, many hours in an attempt to give the housing authorities and HUD the ability to move as expeditiously as possible.

So to our great consternation we have learned of this again through our New York City Public Housing Authority, and they were particularly upset with the provision of section 404 because it says:

> For evictions involving drug related criminal activity which threatens the health and safety of other tenants of public housing employees, as long as evictions of a household member involved in drug-related activities shall not affect the right of any other household member who is not involved in such activity to continue tenancy.

What we are saying is that if you have two people in a family who are not involved in drugs, but three others who are, you can't obtain an eviction because you've got two people who aren't dealing, or if you have, for example, the head of the household who is dealing drugs and he has got others with him who you may not be able to prove are dealing drugs, then for all intents and purposes you can't evict him because the rights of the others are going to be involved.

That seems to be the provision which most of the public housing authorities are much concerned with.

Mr. KEATING. Senator D'Amato, you stated that problem very succinctly, and that language as drafted would, as you have indicated, make it very difficult, if not impossible, to deal with a family problem. It may be, as we have in many, many cases where leases are only signed by, for example, the mother or the father and adult minor children who are involved, actively involved in drug trafficking in that apartment, they are on the premises and they may not be legal tenants, but there is no way that we can make the place secure for the other people who live in that public housing project with those particular statutory provisions. In effect, we have to tolerate an intolerable situation.

I think we need to give more discretion to the public housing authorities and to the courts to provide due process, but at least to be able to examine these on a case-by-case basis and take action on a

case-by-case basis. So I know that our Department, Secretary Kemp would be fully supportive of your efforts, Senator D'Amato, to attempt to right that wrong.

Senator D'AMATO. Well, what we are going to do, and I spoke to Senator Moynihan last evening, is to introduce legislation that would eliminate section 404 in its entirety and, second, I will move to amend whatever vehicle comes through, and we have the State authorization, the State Department authorization bill, which is due to be introduced I believe, they may bring it up at 11, and we'll be working on it in the next 3 or 4 days.

I will be offering an amendment as it relates to clarifying and dealing with this position calling for the elimination of section 404.

For those who have claimed that they want to do something, it seems to me that we should not now engage in a long and a lengthy process of delay, but rather undertake this action, this remedial action, as soon as possible. I'm going to speak to some of the others who share an understanding of this, but as I have indicated, Senator Moynihan has indicated that he is going to join with me in this legislative endeavor.

I see that the chairman has left. I don't know if we have any further questions for Mr. Keating at this time. I simply want to say that I believe that once again Secretary Kemp has demonstrated his wisdom by coming forth with you as his nominee for this important position during a critical time.

Your expertise in law enforcement and your scholarly pursuits in the law certainly are a welcome addition to the Department of HUD at this critical juncture, and I look forward to working with you.

Mr. KEATING. Thank you, Senator.

Senator D'AMATO. I guess the chairman thought we had a lot more questions for you. [Laughter.]

The committee at this time will suspend until we get a quorum to undertake votes on those matters which are on the agenda.

[Recess in place.]

The CHAIRMAN. The committee will come back to order.

Mr. Keating, could I ask you just for a moment to come back to the table.

I'm sure in my absence you have satisfied Senator D'Amato's concerns in every respect.

Senator D'AMATO. Mr. Chairman, Mr. Keating certainly did. He underscored the necessity of us taking remedial action as it relates to being able to evict those who are dealing drugs in our public housing authorities, and I certainly intend to move as expeditiously as possible.

As a matter of fact, even today there is an opportunity for us to possibly move on that State authorization bill. Whenever that bill comes up, I intend to attach an amendment that will delete section 404.

The CHAIRMAN. Thank you, Senator D'Amato.

Mr. Keating, I'm going to give you some questions to respond to for the record. I have discussed your nomination with other members of the committee. I intend momentarily to have the committee act on your nomination.

I want to indicate that Senator Boren also came this morning and just spoke to me here to speak in your behalf. He also is a strong supporter of yours along with Senator Nickles.

The CHAIRMAN. We are pleased at this time, and we thank you for your testimony.

We will excuse you at this point, and then I'm going to have the committee act on your nomination.

Mr. KEATING. Thank you, Mr. Chairman.

[The committee recessed the nomination hearing for Francis Anthony Keating at 9:40 a.m., and proceeded with other business.]

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